

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EATON CORPORATION,

Plaintiff,

Case No. 03-74844

vs.

HON. GEORGE CARAM STEEH

ZF MERITOR LLC, ARVINMERITOR,
INC. and ZF FRIEDRICHSHAFEN AG,

Defendants.

_____ /

ORDER DENYING DEFENDANTS' MOTION FOR
RECONSIDERATION OF ORDER DENYING SUMMARY JUDGMENT
OF INVALIDITY OF THE '458 PATENT [DOC. # 249]

This court entered an opinion and order denying defendants' motion for summary judgment of invalidity of the '458 patent on October 4, 2007. Defendants filed this motion for reconsideration on October 19, 2007. For the reasons given below, defendants' motion for reconsideration is DENIED.

Defendants take issue with three assertions made by Dr. Caulfield in his declaration, and relied upon by the Court. Dr. Caulfield was addressing secondary considerations relating to whether it would have been obvious to combine Dobson's teaching that a single movement of the lever in the upshift direction from neutral will be interpreted as the driver's request for a direct shift to an appropriate start gear when the vehicle is in a rolling start mode of operation, with IVEOC's teaching of determining an appropriate rolling start gear based on current vehicle speed. The specific assertions that are criticized by defendants for their lack of support are that (1) for nearly ten years there was a long-felt need for the invention, (2) many others failed to achieve a

satisfactory solution during this time period, and (3) the Dobson and IVECO prior art references teach away from the claimed invention. Defendants submit a supplemental declaration of Dr. Davis as additional evidence refuting Dr. Caulfield's allegedly "unsupported and inaccurate new opinion."

Local Rule 7.1(g)(3) of the Local Rules of the United States District Court for the Eastern District of Michigan provides:

[M]otions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either expressly or by reasonable implication, shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

While defendants may vigorously disagree with Dr. Caulfield's opinions, they have not demonstrated a palpable defect by which this Court has been misled.

Accordingly,

IT IS ORDERED that defendants' motion for reconsideration is hereby DENIED.

So ordered.

Dated: December 13, 2007

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on December 13, 2007, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk